

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2019-080-00101A

Parcel No. 0107451

Neil Evan Morgan,

Appellant,

vs.

Ringgold County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on March 6, 2020. Neil Morgan was self-represented. Ringgold County Attorney Clinton Spurrier represented the Board of Review.

Neil Morgan owns an unimproved, agriculturally classified property located at 205 W Oak Street, Mount Ayr. The property's January 1, 2019 assessment was set at \$26,012. (Ex. A). Since the original assessment, Ringgold County received an equalization order from the State reducing the subject's January 1, 2019 assessment to \$24,090.

Morgan petitioned the Board of Review claiming an error in the assessment. Iowa Code § 441.37(1)(a)(4). (Ex. C). The Board of Review denied the petition. (Dockets 10028A & 10020A, Ex. B).

Morgan appealed to PAAB reasserting his error claim and now also asserts the assessment is not equitable as compared with assessments of other like property and that the property is assessed for more than the value authorized by law. Iowa Code

§ 441.37(1)(a)(1, 2 & 4).

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2019). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§ 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code Rule 701-126.2(2-4). PAAB determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005).

Findings of Fact

The subject property is an unimproved 39-acre agricultural parcel, with 8.22 acres identified as non-crop land. (Exs. A & F). There is no dispute that there is a pond almost directly in the middle of the subject site. (Exs. 2, D, E & H).

Morgan, who was the former Ringgold County Assessor, appealed the 2019 assessment of his property making two central arguments. First, he believes the productivity formula used to value agriculturally classified properties in Iowa is flawed. Second, he asserts a pond on his property has been incorrectly identified and should not be valued, rather it should have a CSR2 rating of 0.

First, Morgan asserts the underlying data used in the productivity formula required by the State to value agricultural property is, in his opinion, “deeply flawed.” In particular, he believes there are discrepancies and unexplained changes in acreage figures used to calculate and apply the agricultural productivity formula statewide. He

submitted evidence he believes supports this assertion. (Exs. 6-8). Morgan testified at length about how he has extracted data that is used in the development of the productivity formula. He admitted he created his exhibits and subsequent calculations based on his understanding of data compiled by other government agencies. The underlying data for his calculations was not submitted and it is not possible for PAAB to determine the reliability of his analysis. However, Morgan's arguments relative to this claim do not specifically identify how the formula has resulted in inaccuracies in his own assessment. When questioned, he admitted he does not believe this issue has caused his property to be assessed in a different manner than other agricultural property in Ringgold County. He did not request that PAAB grant him relief based on this claim. Nonetheless, due to his concerns with the underlying data, Morgan believes PAAB should be investigating the productivity formula and how it is developed.

Morgan's second concern, and his sole request of relief, was based on his assertion the treatment of his pond is inequitable. He testified the soil map, which identifies existing ponds in Ringgold County, has not been updated since approximately 1990.¹ Since the last update of the mapping system he believes there are 850 new ponds in the county that are not being treated equally. In his opinion, it is not difficult to identify new ponds.

Morgan testified that "old ponds," which are those identified as of 1990, are assessed at a CSR2 rating of 0, and ultimately not assigned any value. In comparison, the ponds built since that time, including the one on his property, are assessed based on existing underlying CSR2 soil ratings. (Ex. 2). He asserts this error results in an inequitable assessment of his property and his property being over assessed.

In addition to requesting that his property's assessment be corrected, Morgan believes all properties in Ringgold County with new ponds should also have their assessments modified. (Ex. 3).

¹ Morgan's testimony and evidence expressed similar concerns about rivers. As the present parcel does not include a river, we do not consider this testimony or evidence.

Morgan's board of review petition points out that Parcels 010734 and 010409 have ponds with zero value. Aerial photographs and overlays show those parcels are located adjacent to the subject property. (Ex. D). Where ponds are located on those parcels, the map overlay shows a "W" that seemingly indicates water.² (Compare Ex. D & E; Ex. 1). However, there is no such label for the pond on the subject property. Exhibit H indicates that areas labelled with a W would have a zero CSR2 rating. (See also Ex. 1). For all of the parcels, portions including ponds are treated as non-cropland. (Ex. F).

The Board of Review did not have any witnesses but it submitted evidence of what the Assessor's Office relied on when valuing the subject property. (Exs. D-G, & I). The Board of Review noted "the soil survey map (Exhibit D) does not show a pond situated on his property, so when this parcel was assessed, there was no adjustment made for the presence of this pond on the property." (Ex. I, p. 1).

The Board of Review does not dispute a pond exists on the subject parcel. Despite this, its position is the subject property's assessment should be affirmed because the Assessor's Office relied on the soil survey, as required by law, and it does not indicate a pond on the site. The Board of Review believes that changing the subject's assessment would result in inequity compared to other parcels with new ponds that were also valued based on the dated soil survey and did not appeal their assessments. The Board of Review argues the Assessor may only make adjustments in "unusual or limited circumstances" or "extreme or unusual circumstances." (Ex. I); Manual. It points to the fact that Morgan contends there were 850 ponds not identified by the soil survey map that he added when he was assessor for support that a pond does not fall under the circumstances contemplated for additional adjustment. (Ex. I).

The Board of Review submitted evidence demonstrating the assessed value of the subject property would be \$25,186 if the existing pond had a CSR2 rating of 0. (Ex.

² Ex. D is a soil layer that identifies soil types. For example, the soil type of 822C2 is identified on the subject property. This soil type is used to arrive at the CSR2 rating. (Ex. F).

G). Because Exhibit G was calculated prior to Ringgold County's equalization order, it notes the actual assessed value of the subject property as of January 1, 2019 would be \$23,325.

Analysis & Conclusions of Law

Morgan contends that the assessment of his agricultural real estate is not equitable as compared with other like properties, that his property is assessed for more than the value authorized by law, and there is an error in the assessment under Iowa Code section 441.37(1)(a)(1, 2, & 4).

Under section 441.37(1)(a)(1), a taxpayer may claim that their "assessment is not equitable as compared with assessments of other like property in the taxing district." The fundamental basis for this claim has long been recognized. *Burnham v. Barber*, 70 Iowa 87, 30 N.W.20 (Iowa 1886); *Barz v. Bd of Equalization of Town of Klemme*, 133 Iowa 563, 111 N.W. 41 (Iowa 1907); *Iowa Cent. Ry. Co. v. Bd. of Review of Eliot Tp., Louisa County*, 157 N.W. 731, 732 (Iowa 1916). In *Iowa Cent. Ry. Co.*, the Iowa Supreme Court stated the "paramount object which the law seeks to insure in distributing the burdens of taxation is equality." 157 N.W. at 732.

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The Maxwell test provides that inequity exists when, after considering the actual values (2018 sales) and assessed values (2019 assessments) of comparable properties, the subject property is assessed at a higher portion of its actual value. There is no evidence by which the *Maxwell* test can be applied, and therefore our equity analysis hinges on whether the subject's assessment was arrived at through a non-uniform method.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted).

Finally, under Iowa Code section 441.37(1)(a)(4), an aggrieved taxpayer or property owner may appeal their assessment on the basis “[t]hat there is an error in the assessment.” An error may include, but is not limited to, listing errors or erroneous mathematical calculations.” Iowa Admin. Code R. 701-71.20(4)(b)(4).

Iowa Code section 441.21(1)(e) requires agricultural property be assessed by giving exclusive consideration to its productivity and net earning capacity. Any formula or method employed to determine productivity and net earning capacity of property shall be adopted in full by rule. § 441.21(1)(e). Section 441.21(1)(e) expressly authorizes the Iowa Department of Revenue to fashion a rule setting forth the formula. The formula or method for determining aggregate values of agricultural real estate (also known as the “ag productivity formula”) is set forth in Rule 701- 71.12(1).

First, Morgan believes the underlying data used in the productivity formula required to value agricultural property is, in his opinion, “deeply flawed.” Specifically, he questions the reliability of acreage figures used in the formula’s calculation. Morgan expressed a general concern about the issue and he did not request any specific relief to his property’s assessment based on this claim. Therefore, we do not dwell further upon it except to note one thing. As has been stated in prior challenges to the Department’s productivity formula, the Department’s task in creating the formula was a “daunting one.” *In the Matter of Ringgold Cnty. v. Iowa Dep’t of Rev.*, 2014 WL 4809000 *8 (Dep’t of Inspections and Appeals, Administrative Hearings Div. Jan. 6, 2014). When assertions such as Morgan’s are made, it is important that the claims are accompanied by solutions. *Id.* at *9 (“the Appellant has not set forth any alternative, comprehensive system for valuing agricultural land that would be more just.”). Here, the former are aplenty, but the latter are lacking.

Morgan also asserts a pond on his property has been valued while other ponds in the County receive no value. He believes this violates Article 1, Section 6 of the Iowa Constitution. There is no dispute between the parties that a pond exists on the subject site. The Board of Review believes because the Assessor's Office relied on existing soil survey maps that were created prior to the existence of the subject's pond and do not identify it, the assessment is correct and should be affirmed. We disagree.

It is not disputed the pond exists. The uncontroverted evidence indicates that other ponds on parcels adjacent to the subject are receiving an adjustment equivalent to a 0 CSR2 and are not being valued. As it relates to the subject property before us, this disparate treatment of Morgan's pond results in inequity. *Dull v. Cnty. Bd. of Review v. Plymouth Cnty.*, 150 N.W.2d 91(Iowa 1967) (finding application of different adjustments to like property was inequitable and illegal). To remedy the inequity it should be assigned a CSR2 rating of 0, similar to the ponds on the adjacent properties.³ The Board of Review reports that if the rating of the pond were assigned a 0 rating, its January 1, 2019 assessed value should be \$23,325, as provided by the Board of Review at hearing.

Based on the foregoing, we conclude Morgan has shown inequity in the subject property's assessment and the property's correct assessed value based on the productivity formula is \$23,325.

Order

PAAB HEREBY MODIFIES the Ringgold County Board of Review's action. Based on the foregoing we order the subject property's January 1, 2019 assessed value be set at \$23,325.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2019).

³ Although it appears there are other ponds across the county that are also not identified on the soil map, those properties are not before us and we have no authority to modify their assessments.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order⁴ and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.



Karen Oberman, Board Member



Dennis Loll, Board Member



Elizabeth Goodman, Board Member

Copies to:

Neil Morgan by eFile

Ringgold County Board of Review by eFile

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⁴ Due to the State Public Health Disaster Emergency caused by the coronavirus (COVID-19), the deadline for filing a judicial review action may be tolled pursuant to orders from the Iowa Supreme Court. Please visit the Iowa Judicial Branch website at <https://www.iowacourts.gov/iowa-courts/supreme-court/orders/> for the most recent Iowa Supreme Court orders.